

§ 1955.1

29 CFR Ch. XVII (7–1–01 Edition)

Subpart E—Hearing and Decision

- 1955.40 Hearings.
- 1955.41 Decision of the administrative law judge.
- 1955.42 Exceptions.
- 1955.43 Transmission of the record.
- 1955.44 Final decision.
- 1955.45 Effect of appeal of administrative law judge's decision.
- 1955.46 Finality for purposes of judicial review.
- 1955.47 Judicial review.

AUTHORITY: Secs. 8, 18, Occupational Safety and Health Act of 1970 (29 U.S.C. 657, 667); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), or 9-83 (48 FR 35736), as applicable.

SOURCE: 40 FR 23467, May 30, 1975, unless otherwise noted.

Subpart A—General

§ 1955.1 Purpose and scope.

(a) This part contains rules of practice and procedure for formal administrative proceedings on the withdrawal of initial or final approval of State plans in accordance with section 18(f) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667).

(b) These rules shall be construed to secure a prompt and just conclusion of the proceedings subject thereto.

§ 1955.2 Definitions.

(a) As used in this part unless the context clearly requires otherwise:

(1) *Act* means the Occupational Safety and Health Act of 1970;

(2) *Assistant Secretary* means Assistant Secretary of Labor for Occupational Safety and Health;

(3) *Commencement of a case* under section 18(f) of the Act means, for the purpose of determining State jurisdiction following a final decision withdrawing approval of a plan, the issuance of a citation.

(4) *Developmental step* includes, but is not limited to, those items listed in the published developmental schedule, or any revisions thereto, for each plan contained in 29 CFR part 1952. A developmental step also includes those items in the plan as approved under section 18(c) of the Act, as well as those items in the approval decision which are subject to evaluations (see e.g., approval of Michigan plan), which

were deemed necessary to make the State program at least as effective as the Federal program within the 3 year developmental period. (See 29 CFR 1953.10(a)).

(5) *Final approval* means approval of the State plan, or any modification thereof under section 18(e) of the Act and subpart D of 29 CFR part 1902.

(6) *Initial approval* means approval of a State plan, or any modification thereof under section 18(c) of the Act and subpart C of 29 CFR part 1902;

(7) *Party* includes the State agency or agencies designated to administer and enforce the State plan that is the subject of withdrawal proceedings, the Department of Labor, Occupational Safety and Health Administration (hereinafter called OSHA), represented by the Office of the Solicitor and any person participating in the proceedings pursuant to § 1955.17;

(8) *Person* means an individual, partnership, association, corporation, business trust, legal representative, an organized group of individuals, or an agency, authority, or instrumentality of the United States or of a State;

(9) *Secretary* means Secretary of Labor;

(10) *Separable portion of a plan* for purposes of withdrawal of approval generally means an issue as defined in 29 CFR 1902.2(c), i.e. "an industrial, occupational or hazard grouping which is at least as comprehensive as a corresponding grouping contained in (i) one or more sections in subpart B or R of part 1910 of this chapter, or (ii) one or more of the remaining subparts of part 1910": *Provided*, That wherever the Assistant Secretary has determined that other industrial, occupational or hazard groupings are administratively practicable, such groupings shall be considered separable portions of a plan.

(b) [Reserved]

§ 1955.3 General policy.

(a) The following circumstances shall be cause for initiation of proceedings under this part for withdrawal of approval of a State plan, or any portion thereof.

(1) Whenever the Assistant Secretary determines that under § 1902.2(b) of this chapter a State has not substantially completed the developmental steps of